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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,353	09/28/2004	Bernhard Engesser	P/4302-11 (PCT)	5350
7590 Klaus P. Stoffel, Esq. Wolff & Samson PC One Boland Drive West Orange, NJ 07052			EXAMINER ADAMS, GREGORY W	
			ART UNIT	PAPER NUMBER
			3652	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/11/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/509,353

Applicant(s)

ENGESSER, BERNHARD

Examiner

Gregory W. Adams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 13 November 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 33 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Line 3 discloses that a side wall is displaceable transversely but does not disclose means which provide said movement.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 17, 19, 23-32, 34-35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heyer (US 1,210,168) in view of Crowley (US 5,558,318) (previously cited).

With respect to claim 17, Heyer discloses a stacking shaft, driven shaft floor 1 which retires in accordance with a progressive build-up of a stack; a stacking lock with retractable hold-down devices 13 and retractable press-down 28. Heyer discloses that any suitable means (P1/L86) can be employed to drive a shaft floor and does not disclose a light barrier and a motor driven shaft floor.

Crowley discloses a stacking shaft (indicated generally as 250, 384, 400), a motor driven shaft floor 40, 390, hold down devices 294, 308, push down device 252 and light barrier 284, 302 (C9/L32). Crowley teaches a light barrier which activates a table allows the formation of more discrete stacks of folded web which can then be routed to different locations. C1/L30. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Heyer's apparatus to include a light barrier and motor drive shaft floor.

With respect to claim 19, Heyer discloses a slide assigned to one of the side walls.

With respect to claim 23, Heyer discloses a guide is disposed on the slide so that the guide extends over a maximum width of the stacking shaft.

With respect to claim 24, Heyer discloses two guide rods 2 on which supports for floor parts of the shaft floor are displaceably disposed, which supports are adjustable in terms of their mutual spacing.

With respect to claim 25, Heyer discloses one of supports faces away from the slide and is configured as a connecting member displaceable on the assigned side wall.

With respect to claim 26, Heyer discloses rear wall strips are provided on a back of the side walls.

With respect to claim 27, Heyer discloses a stacking shaft is arranged substantially vertically.

With respect to claim 28, Heyer discloses a stacking shaft is angled backward.

With respect to claim 29, Heyer discloses a stacking shaft has a guide member for the stack, the guide member being disposed between the side walls and extending over a length of the stacking shaft and being adjustable in terms of distance to the rear wall of the stacking shaft and, in terms of position between the side walls.

With respect to claim 30, Heyer discloses a stacking shaft is open in an upward direction and is configured to allow a packing container to be slipped over.

With respect to claim 31, Heyer discloses a stacking lock fixed and a stacking shaft is displaceable parallel to the rear wall, at least between a stacking position and an unloading position.

With respect to claim 32, Heyer discloses a stacking shaft displaceable into a stand-by position.

With respect to claim 34, Heyer discloses hold-down devices configured as laterally extensible and retractable pins.

With respect to claim 35, Heyer discloses press-down devices configured as rakes which can be swung in and out against the stacking shaft.

2. Claims 18 & 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heyer (US 1,210,168) in view of Crowley (US 5,558,318) (previously cited) and Forthmann, Jr. (US 3,846,960).

Heyer does not disclose adjustable side walls. Forthmann, Jr. '960 discloses adjustable side walls (C5/L29) "in order to accommodate various sizes of labels and containers for the labels." Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Heyer apparatus to include

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adjustable side walls, as per the teachings of Forthmann, Jr. '960, to accommodate various sizes of labels.

3. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heyer (US 1,210,168) in view of Crowley (US 5,558,318) (previously cited) and Anma (US 5,499,805).

Heyer does not disclose a dedicated drive on a slide. Anma discloses dedicated drivers 360, 361, 353, 354 that drive a slide which improve on the ability to identify fullness of a stacking shaft containing banking notes thereby increasing a size of a stack prior to ejection. C1/L40-55. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Heyer to include dedicated drivers, as per the teachings of Anma, to improve stack size and throughput.

Response to Arguments

Applicant's arguments with respect to claims 17-35 have been considered but are moot in view of the new ground(s) of rejection. Crowley's hold down devices do not retract as now required in Claim 17.

With respect to stacking strips or folded sheets Applicant is respectfully reminded that the material or article worked upon by the apparatus does not limit apparatus claims. See MPEP 2115.

Claim 17 merely requires that the hold-down devices and the press-down devices alternate and does not require that said devices alternate with each successive strip of material placed on the top of a building stack. Thus, one interpretation would be

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that at the conclusion of one stack, the press-down device presses a stack top below hold-down devices and then releases to a position out of contact with a stack leaving only the hold-down devices to retain a stack. Crowley discloses a light barrier 284 which "senses the passage of a stack."

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th., 8:00-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GWA



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